

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF PUBLIC HEARING ON
of ARM 17.8.504, 17.8.505,)	PROPOSED AMENDMENT AND
17.8.744, and 17.8.1204 and)	ADOPTION
the adoption of new rules I)	
through IX pertaining to)	(AIR QUALITY)
establishing a registration)	
system for certain facilities)	
that presently require an air)	
quality permit)	

TO: All Concerned Persons

1. On January 23, 2006, at 1:30 p.m., the Board of Environmental Review will hold a public hearing in Room 111, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Board will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board no later than 5:00 p.m., January 13, 2006, to advise us of the nature of the accommodation that you need. Please contact the Board Secretary at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2544; fax (406) 444-4386; or email ber@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

17.8.504 AIR QUALITY PERMIT APPLICATION FEES

(1) through (4) remain the same.

(5) Concurrent with submittal of a registration form, as specified in [NEW RULES I through V], the owner or operator shall submit a registration fee of \$500.

AUTH: 75-2-111, 75-2-220, 75-2-234, MCA

IMP: 75-2-211, 75-2-220, 75-2-234, MCA

17.8.505 AIR QUALITY OPERATION FEES (1) An annual air quality operation fee must be submitted to the department by the owner or operator of each facility:

(a) ~~each facility~~ for which a Montana air quality permit has been issued by the department and remains in effect; ~~and~~

(b) ~~each facility~~ for which an air quality operating permit has been issued by the department and remains in effect; ~~and~~

(c) registered with the department in accordance with [NEW RULES I through V].

(2) through (9) remain the same.

AUTH: 75-2-111, 75-2-220, 75-2-234, MCA
IMP: 75-2-211, 75-2-220, 75-2-234, MCA

17.8.744 MONTANA AIR QUALITY PERMITS--GENERAL EXCLUSIONS

(1) A Montana air quality permit is not required under ARM 17.8.743 for the following:

(a) through (i) remain the same.

(j) temporary process or emission control equipment, replacing malfunctioning process or emission control equipment, and meeting the requirements of ARM 17.8.110(7) through (9); ~~or~~

(k) routine maintenance, repair, or replacement of equipment and equipment used to perform routine maintenance, repair, or replacement-; or

(l) any facility that has been registered with the department in accordance with [NEW SUBCHAPTER I].

AUTH: 75-2-111, 75-2-204, 75-2-234, MCA
IMP: 75-2-211, 75-2-234, MCA

17.8.1204 AIR QUALITY OPERATING PERMIT PROGRAM APPLICABILITY (1) through (2)(c) remain the same.

(3) The department may exempt a source listed in (1) from the requirement to obtain an air quality operating permit by establishing federally enforceable limitations which limit that source's potential to emit, such that the source is no longer a major stationary source, as defined by ARM 17.8.1201(23).

(a) and (b) remain the same.

(c) Federally enforceable limitations that limit a source's potential to emit may be established through conditions contained in a Montana air quality permit, or limits established as a registered facility, or through a judicial order or an administrative order issued by the department or the board, that has been adopted into the Montana state implementation plan.

(d) through (7) remain the same.

AUTH: 75-2-217, MCA
IMP: 75-2-217, MCA

4. The proposed new rules provide as follows:

NEW RULE I DEFINITIONS For the purposes of this subchapter:

(1) "Emitting unit" means:

(a) any equipment that emits or has the potential to emit any regulated air pollutant under the Clean Air Act of Montana through a stack(s) or vent(s); or

(b) any equipment from which emissions consist solely of fugitive emissions of a regulated air pollutant under the Clean Air Act of Montana.

(2) "Potential to emit" means the maximum capacity of a facility or emitting unit, within physical and operational design, to emit a pollutant. Any physical or operational limitation on the capacity of the facility or emitting unit to emit a pollutant, including air pollution control equipment and

restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, is treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions are not considered in determining potential to emit.

(3) "Registered facility" means any registration eligible facility that has been registered for operation under the requirements in this subchapter.

(4) "Registration" means identifying equipment and/or processes to the department in accordance with this subchapter.

(5) "Registration eligible facility" means an oil or gas well facility as defined in 75-2-103(13), MCA.

AUTH: 75-2-111, 75-2-234, MCA

IMP: 75-2-234, MCA

NEW RULE II APPLICABILITY (1) The owner or operator of a registration eligible facility may register with the department in lieu of submitting an application for, and obtaining, a Montana air quality permit (MAQP). Nothing in this subchapter precludes an owner or operator from obtaining and/or maintaining a MAQP in accordance with ARM Title 17, chapter 8, subchapter 7.

AUTH: 75-2-111, 75-2-234, MCA

IMP: 75-2-234, MCA

NEW RULE III REGISTRATION PROCESS AND INFORMATION (1) A registration eligible facility is registered upon the department's receipt of the form and information required in (2) and (3) and the appropriate fee required in [NEW RULE IV]. The department shall acknowledge receipt of a registration within 30 days after receiving the registration.

(2) The owner or operator shall provide the following information to the department, using a form provided by the department:

- (a) facility name and mailing address;
- (b) owner or operator's name, address, and telephone number;
- (c) physical location of facility (legal description to the nearest 1/4 section);
- (d) contact person and telephone number;
- (e) general nature of business;
- (f) standard industrial classification code (SIC);
- (g) SIC description;
- (h) narrative description of the site and facility; and
- (i) site map.

(3) The owner or operator shall provide the following additional equipment-specific information to the department for each emitting unit, including any air pollution control equipment:

- (a) manufacturer's name;
- (b) unit type;
- (c) serial number;
- (d) date of manufacture; and

(e) maximum rated design capacity.

(4) The owner or operator of a registered facility shall notify the department, using the registration form provided by the department, of any change(s) to the registration information, within 15 days after the change(s).

(5) The owner or operator of a registered facility that is modified and becomes subject to the provisions of 42 USC 7475, 7503, or 7661 shall meet the requirements of ARM Title 17, chapter 8, subchapters 8, 9, 10 and/or 12.

(6) The owner or operator of a registration eligible facility may not commence operations under the provisions of this subchapter until the facility has been registered with the department, except as provided in [NEW RULE VI(1)].

(7) The owner or operator of a registration eligible facility for which a valid MAQP has been issued may register with the department and request revocation of the MAQP.

AUTH: 75-2-111, 75-2-234, MCA

IMP: 75-2-234, MCA

NEW RULE IV REGISTRATION FEE (1) The registration fee required by ARM 17.8.504 must be submitted to the department with each registration submitted under this subchapter. No fee is required for notifying the department, pursuant to [NEW RULE III(4)], of changes to registration information.

(2) The registration fee must be paid in its entirety at the time the registration form is submitted to the department.

AUTH: 75-2-111, 75-2-234, MCA

IMP: 75-2-234, MCA

NEW RULE V OPERATING REQUIREMENTS: FACILITY-WIDE

(1) The owner or operator of a registered facility shall allow the department's representatives access to the facility at all reasonable times for the purpose of making inspections or surveys, collecting samples, obtaining data, auditing any monitoring equipment, observing any monitoring or testing, and otherwise conducting all necessary functions related to this subchapter.

(2) The owner or operator of a registered facility shall monitor and record annual production information for all emission points, as required by the department in the annual emission inventory request. The request will include, but is not limited to, all emissions associated with emitting units registered to operate at the facility. Production information must be gathered on a calendar year basis and submitted to the department by the date required in the emission inventory request. Information must be in the units required by the department.

(3) The owner or operator of a registered facility shall maintain onsite records showing daily hours of operation and daily production rates and corresponding emission levels for the previous 12 months. The records compiled in accordance with this subchapter must be maintained by the owner or operator for

at least five years following the date of the measurement, must be available at the plant site for inspection by the department, and must be submitted to the department upon request.

AUTH: 75-2-111, 75-2-234, MCA
IMP: 75-2-234, MCA

NEW RULE VI OIL OR GAS WELL FACILITIES GENERAL REQUIREMENTS (1) The owner or operator of an oil or gas well facility may submit to the department a complete registration form, pursuant to [NEW RULES I through V], within 60 days after the initial well completion date for the facility.

(2) The owner or operator of an oil or gas well facility shall limit production, hours of operation and/or fuel consumption such that the facility's potential to emit is less than 100 tons per year (tpy) of any airborne pollutant that is regulated under this chapter, less than 10 tpy of any individual hazardous air pollutant (HAP), and less than 25 tpy of any combination of HAPs. The facility limitations are 12-month rolling limits, calculated monthly.

(3) The owner or operator of an oil or gas well facility who submits an application for a Montana air quality permit to the department by January 3, 2006, may request that the application be used in lieu of a registration form for registration of the oil or gas well facility by completing the department request form.

AUTH: 75-2-111, 75-2-203, 75-2-211, 75-2-234, MCA
IMP: 75-2-211, 75-2-234, MCA

NEW RULE VII OIL OR GAS WELL FACILITIES EMISSION CONTROL REQUIREMENTS (1) The owner or operator of a registered oil or gas well facility shall install and operate the following air pollution control equipment and comply with the following air pollution control practices:

(a) volatile organic compound (VOC) vapors greater than 500 British thermal units per standard cubic foot (BTU/scf) from oil or gas wellhead equipment, oil and condensate storage tanks, or loading transport vehicles, with a PTE greater than 15 tpy, must be captured and routed to a gas pipeline if a gas pipeline is located within one-half mile of the oil or gas well facility;

(b) VOC vapors greater than 500 BTU/scf from oil and gas wellhead equipment, oil and condensate storage tanks, or loading transport vehicles, with a PTE greater than 15 tpy and located greater than one-half mile from the oil or gas well facility, must be captured and routed to a gas pipeline, or routed to a smokeless combustion device equipped with an electronic ignition device or a continuous burning pilot system and meeting the requirements of 40 CFR 60.18 or routed to control equipment with equal or greater control efficiency than the smokeless combustion device;

(c) hydrocarbon liquids must be loaded into transport vehicles using submerged fill technology;

(d) stationary internal combustion engines of rich-burn

design greater than 85 brake horsepower (BHP) must be equipped with nonselective catalytic reduction or its equivalent to control air emissions; and

(e) stationary internal combustion engines of lean-burn design greater than 85 BHP must be equipped with oxidation catalytic reduction or its equivalent to control air emissions.

AUTH: 75-2-111, 75-2-203, 75-2-234, MCA

IMP: 75-2-234, MCA

NEW RULE VIII OIL OR GAS WELL FACILITIES INSPECTION AND REPAIR REQUIREMENTS (1) The owner or operator of an oil or gas well facility shall inspect all VOC piping components for leaks each calendar month. Leak detection methods may incorporate the use of sight, sound, or smell.

(2) The owner or operator shall make the first attempt to repair any leaking VOC equipment within five days after the leak is detected.

(3) The owner or operator shall repair any leaking VOC equipment as soon as practicable, but no later than 15 days after the leak is initially detected, unless the repair is technically infeasible without a facility shutdown. Such equipment shall be repaired before the end of the first facility shutdown after the leak is initially detected.

AUTH: 75-2-111, 75-2-234, MCA

IMP: 75-2-234, MCA

NEW RULE IX OIL OR GAS WELL FACILITIES RECORDKEEPING AND REPORTING REQUIREMENTS (1) The owner or operator of an oil or gas well facility shall record, and maintain onsite or at a central field office, a record of each monthly inspection required by [NEW RULE VIII].

(2) Inspection records must include, at a minimum, the following information:

- (a) the date of the inspection;
- (b) the findings of the inspection;
- (c) the leak determination method used;
- (d) any corrective action taken; and
- (e) the inspector's name and signature.

(3) All records of inspection and repair must be kept as a permanent business record for at least five years, be available for department inspections, and be submitted to the department upon request.

(4) The owner or operator of an oil or gas well facility shall submit calculations to the department, with the registration form, to verify compliance with [NEW RULE VI(2)].

(5) The owner or operator of an oil or gas well facility shall document, by month, the total production, hours of operation, and/or fuel consumption of the facility. By the 25th day of each month, the owner or operator shall total the production, hours of operation, and/or fuel consumption for the previous month. The monthly information shall be used to determine compliance with the limitation stated in [NEW RULE

VI(2)].

(6) The owner or operator of an oil or gas well facility producing in the Madison (Mississippian), Charles, Ratcliffe, Mission Canyon, Sun River Dolomite, or Duperow (Devonian), or Phosphoria/Tensleep (Permian and Pennsylvanian) geological formations shall submit, with the registration form, an air quality modeling analysis demonstrating compliance with ARM 17.8.210 through 17.8.214 and 17.8.220 through 17.8.223.

(7) The owner or operator of an oil or gas well facility shall certify annually, as required by ARM 17.8.1204(3)(b), that the facility's actual emissions are less than those that would require an air quality Title V operating permit, if the owner or operator has established a limit under [NEW RULE VI(2)]. The annual certification shall comply with the certification requirements of ARM 17.8.1207. The annual certification must be submitted by March 1 and may be submitted with the annual emission inventory information.

AUTH: 75-2-111, 75-2-234, MCA
IMP: 75-2-234, MCA

REASON: The Board is proposing to amend rules and adopt new rules to implement a registration system for certain facilities that presently require an air quality permit. The proposed new rules would establish a general registration system and would establish rules that apply the system to oil and gas well facilities. Currently, with specified exemptions, the administrative rules adopted under the Clean Air Act of Montana require the owner or operator of sources of air pollution to obtain a permit prior to construction or operation. House Bill 700, passed by the 2003 Montana Legislature and codified as 75-2-234, MCA, allows the Board to adopt a registration system in lieu of permitting.

The proposed new rules would provide a system for the owner or operator of a facility to register with the Department in lieu of submitting a permit application and obtaining a permit. The owner or operator of a registered facility still would be required to supply information that is consistent with the type and amount of information currently required in a permit application. Registered facilities would still be required to follow rules of operation that are similar to permit conditions. These rules of operation would include emission limitations, air pollution control equipment installation and operation requirements, and requirements for testing, monitoring and reporting. The registered facilities would still be required to comply with any other applicable requirements not listed within the new rules, such as ambient air quality standards, reasonable precautions standards, opacity standards, etc.

Registration in lieu of permitting is appropriate for source categories in which there are a large number of homogenous sources subject to identical requirements and for which there is no substantial benefit from individual permitting. For these homogenous facilities the permit conditions and environmental impact vary little from facility to

facility. Oil and gas well facilities fit into this category of sources. Implementing a registration system would allow the Department to use air program staff more efficiently, focusing on major source permitting issues and field compliance activities.

The new rules would include requirements for emission control and operating limitations when necessary. Recordkeeping and reporting requirements would also be required as part of the registration program.

This rulemaking process, and any future rulemaking to include additional source categories in the registration system, will provide the opportunity for public comment.

New rules I through V would provide general facility registration information, including definitions, applicability, a description of the registration process, information that must be provided, and a cross-reference to ARM 17.8.504 for the registration fee.

New rules VI through IX would apply specifically to oil and gas well facilities and contain additional requirements that they would be required to comply with through the registration process. The Board is proposing the oil and gas well facility registration rules as an alternative to regulating the large number of oil and gas well facilities that are currently required to obtain a Montana air quality permit, which requires lengthy review of permit applications and preparation of draft and final permits. The registration process would allow the Air Resources Management Bureau to focus on establishing appropriate air pollution control requirements for other sources that require individual permitting and focus on monitoring compliance, while reducing the administrative overhead for both the regulated entities and the Department. This registration approach is necessary to allow the Department to maintain the current level of environmental protection without significantly increasing current staffing levels.

New rule VI would include the general requirements for a registered oil or gas well facility, and new rule VII would provide the requirements for emission controls. Oil and gas well facilities would also be required to conduct leak checks and repair any leaks under specified timeframes. These requirements are included in new rule VIII. New rule IX would include additional recordkeeping and reporting requirements for an oil or gas well facility. Air pollution control and monitoring, recordkeeping, and reporting requirements would be substantially the same under the registration process as under traditional permitting.

The Board also is proposing to amend ARM 17.8.504 and 17.8.505 to include the fees for registered facilities, and is proposing to amend ARM 17.8.744 to exclude registered facilities from the requirement to obtain a Montana air quality permit. The Board also is proposing to amend ARM 17.8.1204 to include registration as a process to limit potential to emit below the threshold that would require a Title V operating permit.

The proposed amendments to ARM 17.8.504 and 17.8.505 would require the owner or operator of a registered facility to pay a

registration fee in lieu of a Montana air quality permit application fee and pay an annual operation fee. These fees would be the same as the air quality permit application and annual operation fees. The Board does not know the cumulative amount of registration fees and annual operating fees that would be paid for registered facilities or the number of persons that would be affected, because the registration process would be an optional alternative to the air quality permit process for facilities eligible for registration. However, the total fees paid and the fees paid by individual owners and operators would be the same as under the existing rules, because the fees for registered facilities would be the same as the fees for facilities subject to an air quality permit. Amendments to ARM 17.8.1204 would allow the owner or operator of an oil or gas well facility to establish a limitation through new rule VI(2) and submit the limitation calculations with the requested registration form to maintain potential emissions below the Title V operating permit threshold. An owner or operator of a facility who establishes such limits also would be required to annually certify that emissions are below the Title V operating permit threshold.

5. Concerned persons may submit their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to the Board Secretary at Board of Environmental Review, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana, 59620-0901; faxed to (406) 444-4386; or emailed to ber@mt.gov, no later than 5:00 p.m., January 30, 2006. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

6. Katherine Orr, attorney for the Board, or another attorney for the Agency Legal Services Bureau, has been designated to preside over and conduct the hearing.

7. The Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to the Board Secretary at Board of Environmental Review, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; emailed to ber@mt.gov; or may be made by completing a

request form at any rules hearing held by the Board.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ DAVID M. RUSOFF
DAVID M. RUSOFF
Rule Reviewer

BY: /s/ JOSEPH W. RUSSELL
JOSEPH W. RUSSELL, M.P.H.,
Chairman

Certified to the Secretary of State December 12, 2005.